

REMARKS

REJECTIONS

Claims 1 to 6 stand rejected under 35 U.S.C. 102(e) as being anticipated by the Joao reference. Examiner Glass has given an elaborate basis of rejecting method claims 2 and 5 which is then summarily applying the same logic to the system claims 1, 3, 4 and 6. Furthermore, Examiner Glass states that Claims 1, 3, 4 and 6 contain multiple statements of intended use which fail to limit the disclosed system. Based upon the amendments to the claims now in the case, in combination with the arguments set forth herebelow, it is submitted that all claims now in the case are in condition for allowance and same is respectfully requested.

THE INVENTION

The invention as set forth in both system and method claims includes the incorporation of a personal memory card (PMC) established for each individual patient onto which certain patient information is transferred and stored by a first PMC reader. Upon each visit to a physician, in conjunction with the physician's examination, the PMC is inserted into the first PMC reader which is in direct communication with a personal digital assistant (PDA), enabling the physician to read the details of the currently-stored information or stored memory contained on the PMC.

After the examination is completed, the physician may then alter the stored memory with the addition of any new medication prescriptions required and additional medical history developed during that physical examination. Typically, the physician's will then insert the PMC into a second PMC reader connected to an office computer in order to read and store the updated stored memory on the PMC into the office computer. The

office computer is programmed to electronically transfer the updated stored memory electronically via the Internet to a host server which is typically remotely located.

The host server is programmed to receive and store the updated stored memory of the patient information and to electronically discern and transmit any new prescription fulfillment requests contained in the updated stored memory. The host server is also programmed to receive electronic acknowledgement from a selected pharmacy that the new prescription has been fulfilled and to electronically transfer that information back to the office computer to complete the prescription fulfillment cycle.

THE JOAO REFERENCE

Turning to the details of the rejection vis-à-vis the Joao reference, the Examiner has asserted numerous specific paragraphs in the Joao reference as teaching each of the specific steps contained in Claims 2 and 5 of the rejected method claims and applied that logic to summarily reject the independent system claims 1 and 3.

With regard to Col. 2, lines 63, forward, the cited passages of Joao states that:

"the apparatus of the present invention includes a central processing computer or central processing computer system which can be a network or server computer. The apparatus also includes a healthcare provider communication device or computer which is associated with a healthcare provider such as a healthcare professional, a hospital, a clinic, and/or any other provider of services described herein. The healthcare provider computer(s) can communicate with, and operate in conjunction with the central processing computer and/or any other computer systems or communication devices described herein".

However, in this passage of Joao, a personal memory card (PMC) is not listed or described. Nor is the Joao apparatus is not used as a means for maintaining a personal database for healthcare information. Nor is a PDA listed in the description of this system.

The essential feature of the Joao system is the intercommunication of devices with a central server. The main feature of the present invention, contrarily, is the use of a PMC to store specific information about each individual patient which interacts with hand-held portable devices (PDAs), and provides personal records of the patient's prescription history and prescription information. This aspect of the present invention is critical to the function thereof in that it provides a "back-up" in case a central server-based system as is envisioned by Joao should fail due to a lack of connectivity to such a system, or experience a failure in power supply as might occur in a large centralized natural disaster.

In Col. 4, line 33 forward, Joao is clearly focused on making a diagnosis based upon the input of a patient symptom into the central server. The present invention does not intend, nor is there a description of, the making of a diagnosis created by a physician or in any way verified by the physician. The present invention is claimed to provide a system and method for transmitting and storing medical prescription information, leaving the process of patient diagnosis separately and uniquely in the hands of a physician.

Indeed, the grandiose design of Joao as set forth in Column 8, starting at line 31 is:

"...to provide an apparatus and a method for providing health information which can incorporate data and/or information from any combination and/or all of the participants in the healthcare field, including patients, users, providers, payors or insurance companies and/or brokers, agents and/or

other intermediaries who act on behalf of any of the above-identified persons or entities."

Contrarily, the present invention is intended to provide information only via the use of the stored memory on a personal memory card, that stored memory being updateable at each physician visit. The transmission of that information on the PMC over the Internet to be stored on a programmed server which is then programmed to take the appropriate steps to also fulfill any new prescriptions appears truly unique to this invention.

Comparing the present invention to Joao at column 20, starting at line 27, the central processing computer of Joao includes an output device which could be a printer, a display, a transmitter, a modem, or other device which can be used to output data. However, again, the output device of the present invention is primarily in the form of an updateable PMC which is not an integral part of the central server or the office computer of the physician. By the updateable stored memory of the PMC of the present invention, communication via the Internet is facilitated to accomplish the most important aspect of the present invention, the fulfillment of new prescriptions. The second primary object of this invention is to provide a simple and convenient means for a physician to permanently electronically record updated stored memory on a PMC which the patient will then carry with him as a permanent medical record, that medical updated information and prescriptions then easily read and stored onto the office computer for updated permanent records of each patient.

The Joao reference at column 33, lines 26-37 merely describes the database as being attached to the CPU and is completely devoid of any reference to a personal memory card (PMC), one essential aspect of the present invention. At column 34, line

33, Joao is describing an insurance function having nothing to do with the prescription fulfillment notification function of the present invention.

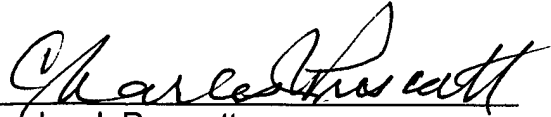
In summary, the complexity and sophistication of the Joao teaching clearly fails to anticipate or render the features of the present invention as being obvious both in terms of its apparatus and method claims presented. Joao fails to teach in the first instance the user of a personal memory card (PMC) or the use of such a card in conjunction with a PDA of a physician who will, at the time of examination, be able to modify the stored memory for each patient on a real time basis. Thus, when a patient leaves the examination room of a physician, all pertinent updated information related to health conditions and prescriptions additions are carried on that card. The information is then transferred in another part of the office to an office computer which is programmed to receive and store this updated information and to then interconnect with a host server to facilitate prescription fulfillments.

The simplicity of Holz as now claimed both in apparatus and method claim format clearly overshadows the teaching of Joao as is supported in the marketplace where the Holz invention as claimed has been well-received and is being commercially exploited throughout the country and worldwide. Moreover, patent protection will soon be available in the EPO as the identical companion case to this has not been granted.

It is submitted that this case and all claims contained herein are in condition for allowance and same is respectfully requested. However, if Examiner Glass finds any remaining informalities, he is encouraged to contact the undersigned directly by telephone

in an attempt to resolve them prior to issuing any further written office actions.

Respectfully submitted,



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CERTIFICATE OF MAILING

I HEREBY CERTIFY that the foregoing is being deposited in the U.S. Mail, first class postage paid, addressed to the Commissioner for Patents, P. O. Box 1450, Alexandria, Virginia 22313-1450, this April 6, 2006.


Charles J. Prescott